

REMARKS

Claims 1-20 remain pending and under current examination.

Regarding the Office Action:

In the Office Action, the Examiner rejected claims 1-20 under 35 U.S.C. § 102(e) as being anticipated by Seppi et al. (U.S. Patent App. Pub. No. US2005/0082491A1) ("Seppi").

Applicants traverse the rejection for the following reasons.¹

Rejection of Claims 1-20 under 35 U.S.C. § 102(e):

Applicants traverse the rejection of claims 1-20 under 35 U.S.C. § 102(e) as being anticipated by Seppi. Applicants respectfully disagree with the Examiner's arguments and conclusions.

(1) *Seppi's unavailability as a prior art reference*

The Examiner has not established that Seppi is competent prior art to claims 1-20 under 35 U.S.C. § 102(e). In order to qualify as prior art within the context of 35 U.S.C. § 102(e), the reference is only effective as prior art on its earliest effective U.S. filing date.

When a prior U.S. patent, ** U.S. patent application publication>,< or international application publication* is not a statutory bar, **a 35 U.S.C. 102(e) rejection can be overcome by antedating the filing date** (see MPEP § 2136.03 regarding critical reference date of 35 U.S.C. 102(e) prior art) **of the reference [...]. The filing date can also be antedated by applicant's earlier foreign priority application** or provisional application if 35 U.S.C. 119 is met and the foreign application or provisional application "supports" (conforms to 35 U.S.C. 112, first paragraph, requirements) all the claims of the U.S. application. M.P.E.P. § 2136.05, 8th Ed. (Rev. 3), August 2005 , p. 2100-105, internal citations omitted, emphasis added.

¹ The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

Thus, an “*applicant may be able to overcome the 35 U.S.C. 102(e) rejection by proving he or she is entitled to his or her own 35 U.S.C. 119 priority date which is earlier than the reference's U.S. filing date.*” M.P.E.P. § 2136.03, p. 2100-102, (emphasis added).

In this case, Applicants’ foreign priority filing date of December 9, 2002, (JP 2002-357121), predates Seppi’s earliest U.S. filing date of October 15, 2003. Therefore, Seppi is not available as a prior art reference, and the 35 U.S.C. § 102(e) rejection should be withdrawn.

(2) Seppi’s failure to disclose the claimed invention

Seppi’s ineligibility as prior art to Applicants’ claims notwithstanding, Applicants also traverse the rejection of claims 1-20 because Seppi does not anticipate the claims.

In order to properly establish that Seppi anticipates Applicants’ claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Seppi does not disclose each and every element of Applicants’ claimed invention, despite the Examiner’s allegations. Specifically, Seppi does not disclose at least Applicants’ claimed

pair of electrodes disposed in contact with both surfaces of said X-ray-charge conversion film; wherein said X-ray-charge conversion film has a laminate structure including a plurality of metal halide films laminated along direction of c-axis of hexagonal crystal structure and differing in band gap from one another, and halogen atoms contained in said plurality of metal halide films are of the same kind among them. (claim 1); or

common electrode which is disposed on one of the surfaces of said X-ray-charge conversion film, which is opposite to the surface where said pixel

electrodes of said X-ray-charge conversion film are disposed; wherein said X-ray-charge conversion film has a laminate structure comprising a plurality of metal halide films laminated along a direction of c-axis of hexagonal crystal structure and differing in band gap from one another, the halogen atoms of the metal halide films are of the same kind with one another. (claim 16).

Rather, Seppi discloses an imager 600 including x-ray conversion panel 610, detector array 620, plurality of pixel elements 622, with first electrode 602, photoconductor 606, and second electrode 604. *See Seppi*, Fig. 6. Applicants point out that Seppi's *photoconductor* 606 does not have a laminated structure, but instead has a single layer structure.

Furthermore, the Examiner alleged Seppi discloses "a pair of electrodes (602 & 604) 6 disposed in contact with both surfaces of said X-ray-charge conversion film (610)" (Office Action, p. 3). However, Seppi's Fig. 6 appears to show that first electrode 602 and second electrode 604 are arranged in contact with both surfaces of photoconductor 606, and not x-ray conversion panel 610.

Finally, while Seppi's *x-ray conversion panel* 610 does appear to have a laminated structure in Fig. 6, the laminated structure constitutes photoconductor 606 and first and second electrodes 602, 604, the electrodes being in contact with photoconductor 606.

Thus, Seppi does not disclose the above-quoted elements of Applicants' claims 1 and 16. Independent claims 1 and 16 are therefore not anticipated by Seppi. Dependent claims 2-15 and 17-20 are also not anticipated by Seppi at least by virtue of their respective dependence from claims 1 or 16 (directly or indirectly). Therefore, the 35 U.S.C. § 102(e) rejection of claims 1-20 should be withdrawn.

Conclusion:

In view of the foregoing, Applicants request reconsideration of the application and withdrawal of the rejections. Pending claims 1-20 are in condition for allowance, and Applicants request a favorable action.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: 

David M. Longo
Reg. No. 53,235

/direct telephone: (202) 408-4489/